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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/932,870	08/17/2001	Andrew W. Buffmire	13293.001	6579

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EXAMINER

HASHEM, LISA

ART UNIT	PAPER NUMBER
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2645

DATE MAILED: 06/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/932,870

Applicant(s)

BUFFMIRE ET AL.

Examiner

Lisa Hashem

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 January 2005.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 August 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

FINAL DETAILED ACTION

Drawings

1. New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because of the objections noted in the Notice of Draftsperson's Patent Drawing Review PTO-948 filed on 8-02-2004. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

INFORMATION ON HOW TO EFFECT DRAWING CHANGES

Replacement Drawing Sheets

Drawing changes must be made by presenting replacement sheets which incorporate the desired changes and which comply with 37 CFR 1.84. An explanation of the changes made must be presented either in the drawing amendments section, or remarks, section of the amendment paper. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). A replacement sheet must include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of the amended drawing(s) must not be labeled as "amended." If the changes to the drawing figure(s) are not accepted by the examiner, applicant will be notified of any required corrective action in the next Office action. No further drawing submission will be required, unless applicant is notified.

Identifying indicia, if provided, should include the title of the invention, inventor's name, and application number, or docket number (if any) if an application number has not been assigned to the application. If this information is provided, it must be placed on the front of each sheet and within the top margin.

Annotated Drawing Sheets

A marked-up copy of any amended drawing figure, including annotations indicating the changes made, may be submitted or required by the examiner. The annotated drawing sheet(s) must be

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clearly labeled as "Annotated Sheet" and must be presented in the amendment or remarks section that explains the change(s) to the drawings.

Timing of Corrections

Applicant is required to submit acceptable corrected drawings within the time period set in the Office action. See 37 CFR 1.85(a). Failure to take corrective action within the set period will result in ABANDONMENT of the application.

If corrected drawings are required in a Notice of Allowability (PTOL-37), the new drawings MUST be filed within the THREE MONTH shortened statutory period set for reply in the "Notice of Allowability." Extensions of time may NOT be obtained under the provisions of 37 CFR 1.136 for filing the corrected drawings after the mailing of a Notice of Allowability.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claim 6-7, 10-11, and 14-15 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by U.S. Patent No. 5,192,954 by Brockelsby et al, hereinafter Brockelsby.

Regarding claim 6, Brockelsby discloses an intrinsic pavement transmitter and antenna, comprising a roadway (see Figure 25, 67; column 9, lines 1-38), including: a) a suitable wearing course material (Figure 2, 9); and b) an effective amount of radio frequency conductive material, inherently sufficient to transmit and receive radio frequencies (see Figure 2; column 5, lines 6-27; column 6, lines 19-41 and 59-66).

Regarding claim 7, the intrinsic pavement transmitter and antenna of claim 6, wherein Brockelsby further discloses the radio frequency conductive material is at least one member selected from a group consisting of: radio frequency transmittable polymers, metal shavings,

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metal dust, and conductive carbons (column 5, lines 6-27; column 6, lines 19-41 and 59-66; column 8, lines 1-64).

Regarding claim 10, the intrinsic pavement transmitter and antenna of claim 7, wherein Brockelsby further discloses the metal shavings are at least one member selected from a group consisting of: iron, iron alloys, aluminum, aluminum alloys, copper, and copper alloys (column 8, lines 1-64).

Regarding claim 11, the intrinsic pavement transmitter and antenna of claim 7, wherein Brockelsby further discloses the metal dust is at least one member selected from a group consisting of: iron, iron alloys, aluminum, aluminum alloys, copper, and copper alloys (column 8, lines 1-64).

Regarding claim 14, the intrinsic pavement transmitter and antenna of claim 6, wherein Brockelsby further discloses the conductive material and the wearing course material are substantially distinct layers (see Figure 2).

Regarding claim 15, the intrinsic pavement transmitter and antenna of claim 6, wherein Brockelsby further discloses an insulating layer proximate the roadway (column 8, lines 7-15).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,192,954 by Brockelsby and in further view of U.S. Patent Application No. US 2002/0128769 by Der Ghazarian et al, hereinafter Der Ghazarian.

Regarding claim 1, Brockelsby discloses a radio communications system (see Abstract) comprising: a) an intrinsic pavement transmitter and antenna (see Figure 1; column 5, lines 6-21; Figure 25, 67; column 9, lines 1-38); b) a first transmitter/receiver (Figure 25: 67), at a first point along the intrinsic pavement transmitter and antenna; and c) a second transmitter/receiver or transponder (Figure 27: 63, 71), at a second point along the intrinsic pavement transmitter and antenna; wherein the intrinsic pavement transmitter and antenna conducts radio frequency signals between the first and second transmitter/receiver.

Brockelsby does not disclose the first transmitter/receiver and the second transmitter/receiver are each in communication with an end-user.

Der Ghazarian discloses an Electronic Vehicle Monitoring System comprising: a) a RF electromagnetic Transceiver unit (see Figure 2, 30; page 5, section 0058, lines 18-21); a first transmitter/receiver or parking space transceiver unit (Figure 2, 22), at a first point along a parking space, and in communication with an end-user or employee of a vehicle dealership using computer (page 1, section 0003, lines 1-18; Figure 2, 21); and c) a second transmitter/receiver or

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vehicle transceiver unit (Figure 2, 23), at a second point along the parking space, and in communication with an end-user or driver of the vehicle (page 4, section 0040, lines 1-21); wherein the RF electromagnetic Transceiver unit conducts radio frequency signals between the first and second transmitter/receiver (page 5, section 0058, lines 18-21; page 6, section 0060, line 1 – section 0064, line 12).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Brockelsby to include communication with end-users as taught by Der Ghazarian to provide communication from a first transmitter/receiver to a second transmitter/receiver via radio frequency signals. One of ordinary skill in the art would have been lead to make such a modification since the end-users are notified of signals relating to the security of the vehicle, e.g. the employee of a vehicle dealership is notified of a location of a vehicle and the driver of a vehicle is notified of any security violations taking place.

Regarding claim 2, the radio communications system of claim 1, wherein Der Ghazarian further discloses the second transmitter/receiver (Figure 2, 23) is coupled to the end-user with a hard wire (see Figure 5; page 7, section 0072, lines 1-19).

Regarding claim 3, the radio communications system of claim 1, wherein Brockelsby further discloses the second transmitter/receiver is a conductive surface portion of the intrinsic pavement transmitter and antenna (Figure 25: 63, 71; column 9, lines 1-38).

Regarding claim 4, the radio communications system of claim 1, wherein Der Ghazarian further discloses the first transmitter/receiver is adjacent to the RF electromagnetic Transceiver unit in the parking space (page 1, section 0003, lines 1-18; Figure 2, 21).

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Regarding claim 5, the radio communications system of claim 1, wherein Brockelsby further discloses the first transmitter/receiver is located in the intrinsic pavement transmitter and antenna (Figure 25: 67; column 9, lines 1-38).

6. Claims 8, 12, and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,192,954 by Brockelsby, as applied to claim 6 above, and in further view of U.S. Patent No. 3,962,142 by Freeman et al, hereinafter Freeman.

Regarding claims 8, 12, and 13, the intrinsic pavement transmitter and antenna of claim 6, wherein Brockelsby does not disclose (a) the conductive carbon is at least one member selected from a group consisting of carbon black, carbon fiber, graphite and coke breeze; (b) the suitable wearing course material is at least one member selected from a group consisting of: asphalt and concrete; and (c) the conductive material is intermixed with the wearing course material.

Freeman discloses electrically conducting concrete (see Abstract) comprising: a setttable composition for use as a structural material comprising a bonding material and an aggregate, wherein said aggregate contains electrically conducting material comprising a quantity of relatively large electrically conductive particulate material and a quantity of relatively small electrically conductive particulate material (column 1, lines 46-55). Wherein (a) the conductive carbon is at least one member selected from a group consisting of carbon black, carbon fiber, graphite and coke breeze (see Examples 1-7 in columns 3-4); (b) the suitable wearing course material is at least one member selected from a group consisting of: asphalt and concrete (column 7, lines 52-66); and (c) the conductive material is intermixed with the wearing course material (column 7, lines 52-66).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Brockelsby to include conductive material and wearing course material as taught by Freeman to provide a roadway that is able to transmit and receive radio frequencies. One of ordinary skill in the art would have been lead to make such a modification since the conductive carbon and wearing course material intermixed together will provide an electrically conducting roadway.

7. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,192,954 by Brockelsby, as applied to claim 7 above, and in further view of U.S. Patent No. 5,460,649 by Strassman.

Regarding claim 9, the intrinsic pavement transmitter and antenna of claim 7, wherein Brockelsby does not disclose the radio frequency transmittable polymers include: polyacetylene, polyaniline, polypyrrole, polythiophenes, polyethylenedioxythiophene and poly(p-phenylene vinylene)s.

Strassman discloses a fiber-reinforced rubber asphalt composition (see Abstract) comprising: composition that is more durable, longer lasting, more resilient, and less prone to cracking. Wherein fibrous materials employed in the composition are preferably synthetic organic fibers. Examples of suitable polyester fibers include: poly(ethylene terephthalate), poly(1,4-cyclohexanemethylene terephthalate), poly(vinyl acetate), poly(methyl acrylate), poly(methyl methacrylate), and poly(hexamethylene fumarate) (column 2, lines 52-64; column 5, line 61 – column 6, line 7).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Brockelsby to include conductive material as taught by Strassman

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to provide a roadway that is able to transmit and receive radio frequencies. One of ordinary skill in the art would have been lead to make such a modification since a fiber-reinforced rubber asphalt composition will provide an electrically conducting roadway.

Response to Arguments

8. In regards to Applicant's remarks, filed on 1-26-2005, 'Brockelsby does not disclose an intrinsic pavement transmitter and antenna in which both the antenna and the transponder are stationary and located at points along the pavement'. Examiner disagrees with this statement. Brockelsby clearly discloses in Figure 25 that a 'Transmit and Receiver Antenna' is located in the Roadway (Figure 67). The antenna can receive trigger signals via a circulator (Figure 25, 69) and a vehicle mounted transponder (Figure 27, 95) and can transmit signals from the transponder to a radio frequency receiver (Figure 25, 71) (column 9, lines 20-31). The transponder is not intrinsic to the pavement because it is located on a vehicle and communicates with the antenna.

In response to applicant's argument that there is no suggestion to combine the references in the 35 U.S.C 103(a) rejections above, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

In this case, Brockelsby clearly discloses an intrinsic pavement transmitter and antenna as noted in the claim limitations of the instant application and therefore the combination of all references in the 35 U.S.C. 103(a) rejections above are valid.

In conclusion, Brockelsby clearly discloses an intrinsic pavement transmitter and antenna. Please see all rejections above to claims 1-15.

9. Applicant's arguments filed 1-26-2005 have been fully considered but they are not persuasive.

10. Accordingly, this action is **FINAL**.

Conclusion

11. A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

12. Any response to this action should be mailed to:

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Or faxed to:

(703) 872-9306 (for formal communications intended for entry)

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Or call:

(571) 272-2600 (for customer service assistance)

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lisa Hashem whose telephone number is (571) 272-7542. The examiner can normally be reached on M-F 8:30-5:30.

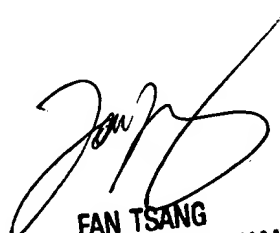
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang can be reached on (571) 272-7547. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (571) 272-2600.

14. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

LH

lh

June 11, 2005


FAN TSANG
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600